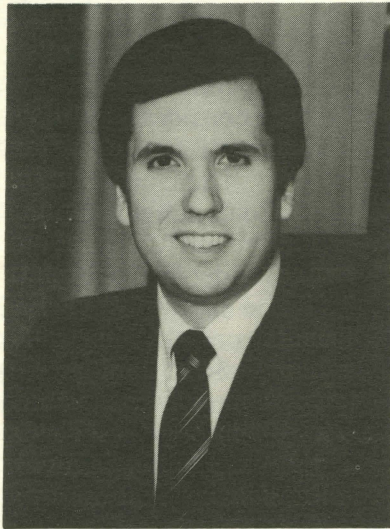


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# Annual Report



# 1985

## In Review

*from the Office of  
Attorney General  
William L. Webster*

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## *Inside...*

*Summaries from the five divisions of the Attorney General's office:*

*Criminal • Governmental Affairs • Human & Environmental Resources • Special Litigation • Trade Offenses*



## Criminal Division

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The two most important cases handled by the Criminal Division in 1985 dealt with the prosecution of trooper killers Jerome Mallett and David C. Tate.

Tate was found guilty of first-degree murder November 13, 1985, in the April machine-gun slaying of Missouri Highway Patrolman Jimmie Linegar.

He was sentenced to life in prison without parole.

"The jury was faced with a difficult decision, possibly the most difficult decision any of those people will ever have to make," Webster said. "The death penalty or life in prison? The jury made a just and conscionable decision. We felt that it was appropriate to seek the death penalty, given the

heinous nature of the crime. A message has been sent that criminal assaults in this state will be dealt with swiftly and surely."

Tate, who formerly resided in Idaho, was a member of "The Order" -- a violent, neo-Nazi "hate group."

Mallett murdered Highway Patrolman James M. Froemsdorf March 2, 1985, following a routine traffic stop in Perry County.

Mallett ultimately received the death penalty.

### Supreme Court Decision...

Only three months after taking office, Webster and members of his criminal staff argued successfully before the United States Supreme Court.

The case, *Lee Roy Black (Director of the Missouri Department of Corrections and Human Resources) vs. Nicholas James Romano*, involved a judge's discretion to revoke probation without consideration of alternatives to incarceration.

Webster argued that the state courts have the discretionary power to revoke probation and are not required to consider alternatives to imprisonment.

The United States Supreme Court concurred with Attorney General Webster and, in an 8-0 decision, ruled in favor of the state, saying that there is no constitutional basis to require a judge to consider alternatives to incarceration when probation is revoked.

## Governmental Affairs Division

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The Governmental Affairs Division represents the state licensing boards, agencies and commissions before the Administrative Hearing Commission, in circuit courts and at the appellate level. Staff attorneys also attend board meetings and provide day-to-day advice to respective client agencies. Representative clients would include the Board of Accountancy, the Department of Agriculture and the Department of Revenue.

Two of the most important cases handled by this division in 1985 include the much-litigated 1981 Hyatt Regency disaster in which 114 people were killed and 200 injured and a lawsuit against Job Search Assistance Inc. of Marshall.

In November 1985, a judge

ruled that two engineers and their St. Louis-based company were guilty of "gross negligence, misconduct and unprofessional conduct."

According to the decision, the engineers showed gross negligence in preparation and completion of structural drawings and in failing to perform the professionally and contractually required review of shop drawings for the Hyatt project before affixing the engineering seal.

The misconduct violation occurred due to an engineer misrepresenting to Hyatt architects the acceptability of the "double hanger rod box beam" connection used in the skywalks. The skywalks ultimately collapsed under the weight of several hundred

hotel guests.

The Missouri Board of Architects, Professional Engineers and Land Surveyors, which is represented by the Attorney General, ultimately suspended the engineers' licenses.

In action against Job Search Assistance, Webster won a legal settlement of \$291,677 and effectively dissolved the company.

"It was our position that the company violated Missouri's general not-for-profit corporation law," Webster said. "It appears the company was actually making a substantial profit."

A temporary restraining order was granted in October and a receiver was appointed to oversee company business.



## Human & Environmental Resources Division

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This division represents the Department of Mental Health, the Department of Natural Resources, the Department of Elementary and Secondary Education, the Human Rights Commission and State Parks. This division also handles matters related to the Department of Social Services and the Department of Health.

Through this division, the Attorney General took part in several lawsuits in 1985 to ensure Medicaid reimbursement to the state.

"This money is the life blood of our mental health institutions," Webster said. "There has been a monumental effort from our people in this division, resulting in millions of dollars being saved for the state."

As might be expected, the environmental area attracts a great deal of litigation.

In the past year, a number of lawsuits have been filed

involving the cleanup of hazardous waste on Missouri land and waterways.

### Dioxin Cleanup...

In September, Webster sent demand letters to several corporations and individuals who arranged for the transport and disposal of dioxin from a Verona manufacturing plant. The letters demanded payment of the cost of the buy out and cleanup of environmental damage at Times Beach. The demands weren't met; the state took legal action in November, demanding payment.

### Water Contamination...

Webster also filed a lawsuit in May, asking a U.S. district court for a judgment of about \$90,000 against a Springfield company for alleged violations of the hazardous waste law.

The company, while in operation in Republic, contaminated a major water

aquifer beneath the city. Cleanup of the water source could cost \$2 million.

### Jefferson County Lawsuit...

In May 1985, Attorney General Webster filed a \$1.4 million lawsuit against a Jefferson County sewer company for allegedly failing to comply with the Clean Water law.

Attorney General Webster said the money collected by the state in this lawsuit would be paid into the Jefferson County school fund.

"Our Human and Environmental Resources Division has done a commendable job," Webster said. "The state often spends a considerable sum in clean-up efforts of all kinds. We want the taxpayer to know that we're working hard to get that money reimbursed by the people who create the problems."

## Special Litigation Division

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In 1985, Kansas City school desegregation and the upstream use of Missouri River water were the most prominent cases in this division.

A United States district court opinion issued in June tabbed the state's portion of the three-year Kansas City, Missouri School District desegregation bill at \$67,592,072.

"In capital improvements alone, we saved the state about \$40 million," Webster said. "We feel that our role in cases such as this is to protect the state treasury."

The case is presently under appeal.

The Missouri River water dispute began in August 1982 when Missouri, Nebraska and Iowa filed a lawsuit in federal district court alleging that the Secretary of the Interior violated federal statutes when he executed a water services contract with Energy Transportation Systems Inc. (ETSI), allowing the company to withdraw up to 50,000 acre-feet of water annually from a reservoir on the Missouri River. The water was to be used in a coal slurry pipeline.

South Dakota asserts that its authority over stored Missouri River water was challenged by this litigation.

South Dakota hopes to take its case to the U.S. Supreme Court.

Webster recently filed a response to South Dakota's motion, claiming the case is being handled by the proper jurisdiction -- the lower federal courts -- and that South Dakota has not been injured by past litigation because ETSI abandoned its coal slurry project.

"As Attorney General, it is my duty to help protect Missouri's natural resources," Webster said. "The Missouri River is a historical resource, important as a major navigable waterway, a public water supply and a recreational facility."



## Trade Offenses Division

The Consumer Protection Division deals almost entirely with consumer fraud and, under the guidance of Attorney General Webster, this division handled **8,936 consumer complaints** in 1985, an increase of nearly 2,000 complaints over the previous year.

"I feel this division keeps my office in touch with what is really happening in this state," Webster said. "We are in contact every day with people from all walks of life, from every corner of the state. We listen to complaints ranging from used cars to burial plots. And these complaints resulted in more than **200 lawsuits** being filed in 1985."

These lawsuits could mean restitution of almost \$2 million to Missourians, Webster said.

The following is a synopsis of major legal actions conducted by this division.

### Charitable Solicitations...

Early 1985, Attorney General Webster filed suit against the **Troopers Benefit Association** to stop the selling of advertisements and tickets that the sellers said benefited the Missouri State Highway Patrol. Solicitors allegedly claimed they were collecting money to benefit state troopers -- but, the association had no connection with the **Missouri State Troopers Association**. According to affidavits of former employees, as much as \$400,000 a year may have been taken through telephone solicitations.

In other action involving charitable solicitations, Webster filed suit seeking restitution for

consumers who incurred financial losses as a result of telephone solicitations by the **Handicapped Children's Foundation** and the **Senior Citizens' Foundation**. These purportedly not-for-profit organizations solicited approximately \$90,500 for various charitable activities which did not take place.

### Product Safety...

In April 1985, Webster filed a lawsuit against Everest & Jennings -- the nation's largest manufacturer of wheelchairs -- seeking the recall of defective wheelchairs.

The state's lawsuit alleges that the company knew that defective parts in motorized wheelchairs could fail, resulting in a total loss of control for the occupant of the wheelchair.

In other litigation involving product safety, Attorney General Webster took action against a Delaware tent manufacturer for not meeting flame resistency standards on tents sold between December 1982 and July 1984. The Kellwood Company agreed to give consumers refunds or replace merchandise.

### Pyramid Schemes...

The Attorney General took legal action against nearly 50 alleged pyramid operations in Missouri in 1985 -- 36 of which have signed compliance agreements.

In these agreements, the operators of the pyramid schemes agreed to stop their illegal activities and refund money to all Missourians who were solicited.

### Missouri Trails...

The state took action against Missouri Trails Resort Corporation and Howard Fisher in Villa Ridge for the alleged misuse of funds generated by the sale of timeshare memberships. More than 1,200 memberships were sold by the corporation.

### Odometer Fraud...

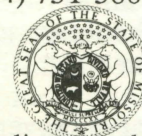
On December 17, 1985, Attorney General Webster filed a petition for permanent injunction against a St. Louis automobile dealer for alleged odometer fraud, increasing the total odometer cases to 21 for the year.

"Odometer tampering may be the greatest consumer fraud problem we face in Missouri," Webster said. "We work diligently in this area and we hope to increase our efforts in 1986."

In nearly every lawsuit alleging odometer tampering, Webster asked for restitution and civil penalties.

### June 1986 Revision

For reprints or further information, contact Bobby George Jr., Communications Director, Attorney General's Office, P.O. Box 899, Jefferson City, Missouri 65102, or call (314) 751-3807.



If you believe you have been dealt with unfairly or have been the victim of fraud in the sale of goods or services, call the Attorney General's toll-free

**Consumer Hotline:**  
**1-800-392-8222**